

REMARKS

This communication responds to the Office Action mailed September 21, 2006 for the application captioned above. Applicant thanks the Examiner for reentry and examination of claims 63-75. By this amendment, claims 17, 81, 87, and 88 are amended and claims 42, 44, 47-51, 57-60, 62-75, 80, and 82-83 are cancelled without prejudice. New claims 98 – 113 are added. No new matter has been added as a result of this amendment. After entry of this amendment, claims 1-2, 6-14, 17-19, 21-41, 76-79, 81, 87-91, and 98-113 are pending, claims 15-16 and 52-65 having been withdrawn and claims 3-5, 20, 57-75, 80, 82-86 and 92-97 having been cancelled. The following remarks are respectfully submitted.

Claims 69-70 and 72-75 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 5,681,100 to Powell. Claims 69-70 and 72-75 are cancelled and thus the rejection is deemed moot.

Claims 1-2, 6, 10, 12, 17-19, 22, 25, 27, 89, 90 and 95 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,681,100 to Powell in view of U.S. Pat. No. 947,640 to Jefferson.

The Examiner bears the initial burden in establishing a prima facie case of obviousness when rejecting claims under 35 U.S.C. §103. In re Piasecki, 745 F.2d 1468, 223 USPQ 758 (Fed. Cir. 1985); In re Reuter, 651 F.2d 751, 210 USPQ 249 (CCPA 1981). If the Examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of non-obviousness.

To properly establish a prima facie case of obviousness, MPEP § 706.02(j) identifies three basic criteria that must be met. First, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. Prior art under 35 U.S.C. §103 is the same as prior art under 35 U.S.C. §102. MPEP § 2141.01. Second, there must be some suggestion or motivation in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or combine reference teachings. Finally, there must be a reasonable expectation of success. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant respectfully requests that the Examiner withdraw the rejection because not all of the claimed elements have been shown in the cited references, either alone or in combination, and therefore the criteria for a rejection under 35 U.S.C. §§102(b) or 103(a) has not been met. Independent claim 1 calls for “a peg adapted to be placed in the opening in the cabinet sidewall such that the peg extends from the sidewall to rest against an outer surface of the stand and thereby hold the cabinet at the angle α being less than approximately 90 degrees.” Independent claim 17 calls for “a stand configured to receive the jewelry cabinet so that the back wall of the jewelry cabinet forms an angle α from the horizontal, the stand including an inside surface adjacent one of the two sides of the frame and a peg extending from the inside surface of the stand to contact an outside surface of the frame.” These limitations are not found in the prior art, either alone or in combination.

The Examiner acknowledges that Powell does not teach the above limitations and relies upon Jefferson to supply this teaching. The Examiner states that “Jefferson teaches an alternative idea of providing a storage system comprising a frame having at least one of two sidewalls including an opening, and a peg 12 adapted to be placed in the opening in the cabinet sidewall such that the peg extends from the sidewall to rest against an outer surface of the stand and thereby hold the cabinet at an angle less than approximately 90 degrees...” The Applicant disagrees with this characterization of Jefferson.

The system of Jefferson differs from the limitations of claims 1 and 17 in several ways. The Examiner describes Jefferson as comprising a “frame having at least one of two sidewalls.” However, it is not clear which element of Jefferson is meant to be the frame. The Applicant believes that the Examiner is referring to the “stand or frame consisting of upright standards 2,” identified in the figures by the number 1 in Jefferson. The identification of the components of Jefferson which are meant to correspond to the elements of the claims is made difficult because the claims call for a frame as one element and the stand as a separate element. In contrast, in Jefferson, a single component is referred to alternatively as either a frame or a stand. Thus the frame or stand of Jefferson are not two separate elements as in the claims but rather they are the same thing.

If the “stand or frame” (line 41) of Jefferson is meant to be the “frame having at least one of two sidewalls” referred to by the Examiner, then there is no stand as called for in the claims. Therefore there can be no “peg adapted to be placed in the opening in the cabinet sidewall such that the peg extends from the sidewall to rest against an outer surface of the stand” as called for in claim 1, since there is no stand. Likewise, there can be no “stand including an inside surface adjacent one of the two sides of the frame and a peg extending from the inside surface of the stand” as called for in claim 17.

In addition, the configuration of the stud and the frame of Jefferson do not meet the claim limitations. In Jefferson, a stud is attached to a lever and the lever is connected to a container holder. The stud is inserted into a hole in a segmental rack on one of the standards of the frame. Thus it is the placement of the stud in the hole which holds the lever in place. This configuration of the stud and the stand does not meet the limitations of the claims 1 and 17. The stud does not extend from the sidewall of the frame as called for in claim 1 because the stud is part of the lever. Furthermore, the stud does not “rest against an outer surface” as called for in the claims but rather is inserted into a hole. Therefore these elements of claims 1 and 17 are also missing from Jefferson.

Furthermore, the lever and stud system of Jefferson would not be suitable for use with the claimed invention. Jefferson states that “the lever has sufficient spring or resiliency to permit the same to be sprung outwardly or inwardly to engage or disengage the stud 12 with and from the apertures 6 in the rack plate 5.” (lines 66-70) Therefore Jefferson requires the system have the ability to bend in order to adjust the position of the holder. No such flexibility is required in the claimed invention. Rather than require any springing action to pull the peg in and out of a hole, the claimed invention employs a peg that rests on an outside surface to hold the frame at an angle. In light of the argument presented above, Applicant respectfully requests that the Examiner withdraw the rejection of claims 1 and 17 and claims 2, 6-16, 18-19, 21-29, 76-79, 89 and 90, dependent thereon.

Claims 7-8, 13-14, 21, 23, 26, 28-29, 63-68, 71, 87 and 94 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Powell in view of Ferenzi and Mech. Claim 7-8, 13-14 and amended claim 87 are dependent directly or indirectly from claim 1. Claims 21, 23, 26 and 28-

29 are dependent from claim 17. For the reasons discussed above with regard to claims 1 and 17, the applicant believes these claim are allowable.

Claims 9, 24, 33 and 88 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Powell, as modified, as applied in claims 1, 17, 30 and 42 and further in view of U.S. Pat. No. 4,282,975 to Ovadia. Claims 9, 24 and 88 are dependent indirectly from claims 1 and 17, respectively, and are believed to be patentable for at least the same reasons given with reference to claims 1 and 17. Claim 33 is dependent from claim 30 which will be discussed below. For the reasons discussed below with regard to claim 30, the applicant believes that claim 33 is allowable.

Claims 30-32, 34-41, 78 and 91 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Powell in view of Ferenzi and Mech. Claim 78 is dependent from claim 17. For the reasons discussed above with regard to claim 17, the applicant believes claim 78 is allowable.

In addition, applicant respectfully requests that the Examiner withdraw the rejection of claim 30 because not all of the claimed elements have been shown in the cited references, either alone or in combination. Claim 30 calls for “at least one vertically extending attachment strip disposed along an interior surface of one of the door and the back wall of the frame.” It also calls for “at least one of the plurality of jewelry storage elements includes a mounting element having a rear side containing at least one attachment device for removable attachment anywhere along a length of the attachment strip.” The Examiner has not indicated that an “attachment strip” is suggested by Powell, Ferenzi or Mech. The Examiner has also not indicated how the cited art teaches “a mounting element having a rear side containing at least one attachment device for removable attachment anywhere along a length of the attachment strip.” The applicant asserts that neither of these limitations is taught or suggested the cited references, either alone or in combination.

Powell does not teach an attachment strip or any sort of removable attachment. Mech teaches removable shelves, but it does not teach an attachment strip or a mounting element having a rear side containing at least one attachment device for removable attachment anywhere along a length of the attachment strip. The shelves of Mech are retained by a plurality of

horizontal supports, not a vertically extending attachment strip. Furthermore, the supports of Mech are located on the sidewalls and not on one of the door or the back wall of the frame as called for in claim 30. Furthermore, the shelves of Mech do not include any sort of attachment device. Ferenzi teaches the use of outwardly projecting tabs with an upward facing mounting slot. The strips of Ferenzi, which are the jewelry holding components, contain downward facing mounting slots to engage the mounting slots of the tabs. Thus Ferenzi does not teach or suggest a vertically extending attachment strip. Furthermore, the jewelry holding strips of Ferenzi do not include a mounting element on the rear side containing at least one attachment device for removable attachment anywhere along a length of an attachment strip. The applicant therefore asserts that these elements of claim 30 are missing from the cited references.

Furthermore, the choice of location of the jewelry holding elements in Ferenzi and Mech is limited. The shelves of Mech may only be placed on the horizontal supports provided on the sidewalls. Likewise, the jewelry holding strips of Ferenzi may only be placed on the tabs. In contrast, the attachment strip as claimed allows for removable attachment of the jewelry storage element “anywhere along a length of the attachment strip.” This provides the user with greater flexibility and allows the user to cater the cabinet to her collection, as the specific movable elements may be positioned according to the user’s preference. Applicant respectfully requests that the Examiner withdraw the rejection of claim 30 and claims 31-41 and 91, dependent thereon.

Claims 42, 44, 47, 57-59, 76-77, 79-80, 82, 92, 93 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Powell in view of WO \$99/00005 to Greiner. Claims 4, 44, 47, 57-59, 80, 82, 92-93 have been cancelled and thus the rejection is deemed moot. Claims 76 – 77 and 79 depend from claim 17, discussed above. The applicant believes claims 76-77 and 79 are allowable for the reasons discussed above with regard to claim 17.

Claims 48-51, 60, 62 and 81 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Powell, as modified, as applied to claims 42 and 57, and further in view of Ferenzi and Mech. Claims 48-51, 60 and 62 have been cancelled and thus the rejection is deemed moot. Claim 81 has been amended to depend from claim 6, which depends from claim 1. For the reasons discussed above with regard to claim 1, the applicant believes that claim 81 is allowable.

Claims 83-86 and 96 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Powell in view of Ferenzi and Mech and Greiner. Claims 83-86 and 96 have been cancelled and thus the rejection is deemed moot.

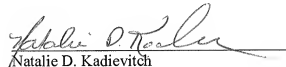
Claim 97 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ferenzi in view of U.S. Pat. No. 4,282,975 to Ovadia. Claim 97 has been cancelled and thus the rejection is deemed moot.

New claims 98 – 113 have been added, all of which ultimately depend from either claim 1, claim 17 or claim 30. For the reasons discussed above with regard to claims 1, 17 and 30, the applicant believes that new claims 98-113 are allowable. No new matter has been added.

It is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested. The Examiner is invited to telephone the undersigned in the event there are any questions concerning the election or if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

Dated February 20, 2007


Natalie D. Kadievitch
Reg. No. 34,196

Customer No. 22859
FREDRIKSON & BYRON, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402-1425 USA
Telephone: (612) 492-7000
Facsimile: (612) 492-7077

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